

103D CONGRESS  
1ST SESSION

# H. R. 1089

To amend the Food, Agriculture, Conservation, and Trade Act of 1990 to provide that a single Federal agency shall be responsible for making technical determinations with respect to wetland or converted wetland on agricultural lands.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 24, 1993

Mr. BUNNING (for himself, Mr. EMERSON, Mr. PENNY, Mr. HANSE, Mr. HERGER, Mr. SARPALIUS, Mr. BARTLETT of Maryland, Mr. STUMP, Mrs. VUCANOVICH, Mr. COMBEST, Mr. CRANE, Mr. GILLMOR, Mr. POMBO, and Mr. INHOFE) introduced the following bill; which was referred jointly to the Committees on Agriculture and Public Works and Transportation

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## A BILL

To amend the Food, Agriculture, Conservation, and Trade Act of 1990 to provide that a single Federal agency shall be responsible for making technical determinations with respect to wetland or converted wetland on agricultural lands.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Wetlands Simplifica-  
5 tion Act”.

1 **SEC. 2. FINDINGS AND PURPOSES.**

2 (a) FINDINGS.—Congress finds that—

3 (1) technical determinations with respect to  
4 wetland or converted wetland on agricultural lands  
5 (including the identification of wetlands and the de-  
6 velopment of wetland restoration and mitigation  
7 plans) are currently made by—

8 (A) the Soil Conservation Service, in con-  
9 sultation with the United States Fish and Wild-  
10 life Service, to carry out subtitle C of title XII  
11 of the Food Security Act of 1985 (16 U.S.C.  
12 3821 et seq.); and

13 (B) the Secretary of the Army, acting  
14 through the Chief of Engineers, to carry out  
15 section 404 of the Federal Water Pollution  
16 Control Act (33 U.S.C. 1344);

17 (2) the system of separate determinations made  
18 under such Acts has led to unnecessarily cum-  
19 bersome and slow decisionmaking and to a lack of  
20 consistency and unpredictable results in determina-  
21 tions;

22 (3) the lack of consistency places substantial  
23 burdens on private property owners that could be al-  
24 leviated if responsibility for making the determina-  
25 tions was carried out by one agency; and

1           (4) the Soil Conservation Service has a long  
2 history of working with agricultural producers to  
3 protect soil and water resources, has considerable  
4 soils expertise, and has field personnel in almost  
5 every county of the United States.

6           (b) PURPOSES.—The purpose of this Act is to—

7           (1) provide that a single Federal agency shall  
8 be responsible for making technical determinations  
9 on agricultural lands with respect to wetland or con-  
10 verted wetland (including the identification of wet-  
11 land and the development of wetland restoration and  
12 mitigation plans), in order to reduce confusion  
13 among agricultural producers; and

14           (2) provide that the Soil Conservation Service,  
15 in consultation with the United States Fish and  
16 Wildlife Service, shall be the Federal agency respon-  
17 sible for all such technical determinations concerning  
18 wetland and converted wetland on agricultural lands.

19 **SEC. 3. COMPLIANCE WITH WETLAND CONSERVATION RE-**  
20 **QUIREMENTS.**

21           Section 1222(j) of the Food Security Act of 1985 (16  
22 U.S.C. 3822(j)) is amended by adding at the end the fol-  
23 lowing new paragraph:

24           “(4) EFFECT OF DETERMINATIONS.—

1           “(A) IN GENERAL.—Notwithstanding any  
2           other provision of law, a technical determina-  
3           tion made under this section with respect to  
4           wetland or converted wetland on agricultural  
5           lands (including the identification of wetland  
6           under paragraph (1) and the development of a  
7           wetland restoration or mitigation plan devel-  
8           oped under paragraph (1)) shall be used in the  
9           administration of section 404 of the Federal  
10          Water Pollution Control Act (33 U.S.C. 1344).

11          “(B) CONSISTENCY.—Any area of agricul-  
12          tural land or any activities related to the land  
13          determined to be exempt from the requirements  
14          of this subtitle shall also be exempt from the re-  
15          quirements of section 404 of the Federal Water  
16          Pollution Control Act (33 U.S.C. 1344) so long  
17          as those lands are used as agricultural lands.

18          “(C) DEFINITION.—For purposes of this  
19          paragraph, the term ‘agricultural lands’ means  
20          cropland, pastureland, native pasture, range-  
21          land, orchards, vineyards, nonindustrial forest  
22          land, and any other land used to produce or  
23          support the production of an annual or peren-  
24          nial crop of a commodity, aquaculture product,  
25          nursery product, or livestock.”.

